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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,258	03/09/2004	Pankaj Mehra	200314264-1	5351

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EXAMINER

LEWIS, CHERYL RENE A

ART UNIT	PAPER NUMBER
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2167

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/797,258

Applicant(s)

MEHRA ET AL.

Examiner

Cheryl Lewis

Art Unit

2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/15/06 & 12/14/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-26 are presented for examination.

INFORMATION DISCLOSURE STATEMENT

2. The information disclosure statements filed on February 14, 2006, complies with the provisions of MPEP § 609. They have been placed in the application file, and the information referred to therein has been considered as to the merits.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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4. Claims 1, 3, 6-9, 13-17, and 26 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 6, 8, 10, 12, 14, 15, 23, 25, and 30 of copending Application No. 10/864,267. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the similarities in the claim limitations of claims 1, 3, 6-9, 13-17, and 26 of the instant application which are found in claims 1, 2, 6, 8, 10, 12, 14, 15, 23, 25, and 30 of copending Application No. 10/864,267 as presented by the following:

1. A transactional processing system comprising:

a database writer configured to process data in accordance with one or more transactions within the transaction processing system; a transaction monitor for monitoring transactions within the transaction processing system; a log writer for maintaining audit trail data associated with transactions within the transaction processing system; and one or more non-disk persistent memory units **associated with the log writer and configured to receive, from the log writer, audit trail data.** (claim 1 of the instant application)

1. A transaction processing system comprising:

a database writer configured to process data in accordance with one or more transactions within the transaction processing system; a transaction monitor for monitoring transactions within the transaction processing system; a log writer for maintaining audit trail data associated with transactions within the transaction processing system; and one or more non-disk persistent memory units, **said transaction processing system being configured to use said one or more non-disk persistent memory units for checkpointing.** (claim 1 of 10/864267)

Claim 2 of 10/864267 and claim 3 of the instant application both recite: The transaction processing system of claim 1, wherein said one or more non-disk persistent memory units comprises a primary non-disk persistent memory unit and a mirror non-disk persistent memory unit.

6. A transaction processing system comprising:

a database writer configured to process data in accordance with one or more transactions within the transaction processing system;

a transaction monitor for monitoring transactions within the transaction processing system;

a log writer for maintaining audit trail data associated with transactions within the transaction processing system;

one or more non-disk persistent memory units associated with the log writer and configured to receive, from the log writer, audit trail data; and

one or more audit log disks configured to receive audit trail data that is first received by the one or more non-disk persistent memory units. (claim 6 of the instant application)

6. A transaction processing system comprising:

a database writer configured to process data in accordance with one or more transactions within the transaction processing system;

a transaction monitor for monitoring transactions within the transaction processing system;

a log writer for maintaining audit trail data associated with transactions within the transaction processing system;

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one or more non-disk persistent memory units associated with the log writer and configured to receive, from the log writer, audit trail data, **said one or more non-disk persistent memory units being configured to be used by at least the log writer for checkpointing; and**

one or more audit log disks configured to receive audit trail data that is first received by the one or more non-disk persistent memory units.

Therefore, claims 1-26 of the instant application substantially comprise claim limitations that are presented in claims 1-31 of co-pending application 10/864267.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 14 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Baentsch et al. (Patent No. 6,272,607 B1 filed August 24, 1999, priority to foreign application EP 98116374 filed August 24, 1999, hereinafter Baentsch).

Art Unit: 2167

7. Regarding Claim 14, Baentsch teaches a method and apparatus for transactional writing of data into a persistent memory.

The method and associated system for transactional writing of data into a persistent memory as taught or suggested by Baentsch includes:

Receiving data (col. 6, lines 44 and 45, 'valid data from the buffer 6 to the persistent memory 50') associated with transaction-induced state changes (col. 6, lines 44 and 45, '..procedure copies all valid data...'; col. 6, lines 48-50, '...the object header 3 was written to the buffer 6, the buffer content is to be used to update the persistent memory 50. '); and writing the received data to non-disk persistent memory sufficient to commit an associated transaction (col. 5, lines 34-40, col. 6, lines 30-39, col. 7, lines 5-21 and 60-65).

8. Regarding Claim 26, Baentsch teaches using non-disk persistent memory to commit transactions (col. 2, lines 28-31, col. 4, lines 24-28, col. 5, lines 34-40, col. 6, lines 30-39, col. 7, lines 5-21 and 60-65).

NAME OF CONTACT

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Lewis whose telephone number is (571) 272-4113. The examiner can normally be reached on 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on (571) 272-7079.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

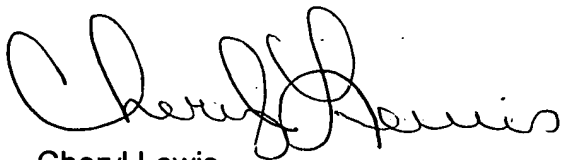
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(571) 273-4113 (Use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper/amendment be faxed directly to them on occasions.).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/ Technology Center (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cheryl Lewis
Patent Examiner
January 30, 2007